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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/726,013

Applicant(s)

AWADA ET AL.

Examiner

Stephen M Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3-26-01.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Requirements for Information***

37 CFR 1.105 states: (a) (1) In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), in a patent, or in a reexamination proceeding, the examiner or other Office employee may require the submission, from individuals identified under 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, for example:

- (i) Commercial databases : The existence of any particularly relevant commercial database known to any of the inventors that could be searched for a particular aspect of the invention.
- (ii) Search : Whether a search of the prior art was made, and if so, what was searched.
- (iii) Related information : A copy of any non-patent literature, published application, or patent (U.S. or foreign), by any of the inventors, that relates to the claimed invention.
- (iv) Information used to draft application : A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used to draft the application.

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- (v) Information used in invention process : A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used in the invention process, such as by designing around or providing a solution to accomplish an invention result.
  - (vi) Improvements : Where the claimed invention is an improvement, identification of what is being improved.
  - (vii) In Use : Identification of any use of the claimed invention known to any of the inventors at the time the application was filed notwithstanding the date of the use.
- (2) Where an assignee has asserted its right to prosecute pursuant to 3.71(a) of this chapter, matters such as paragraphs (a)(1)(I), (iii), and (vii) of this section may also be applied to such assignee.
- (3) Any reply that states that the information required to be submitted is unknown and/or is not readily available to the party or parties from which it was requested will be accepted as a complete reply.
- (b) The requirement for information of paragraph (a)(1) of this section may be included in an Office action, or sent separately.
- (c) A reply, or a failure to reply, to a requirement for information under this section will be governed by 1.135 and 1.136.

The Office is requiring submission of information reasonably necessary to properly examine and treat the claimed subject matter under Rule 105. Of particular

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interest is information used in drafting the present operation including information related to the field of endeavor or business practices used by applicants' professional business ventures, to show the information used in the invention process, and identification of any use of the claimed invention known to the inventor at the time the application was filed notwithstanding the date of the use. Since the application is filed as a large entity status, along with the fact that the assignee has other pending applications and/or patented inventions closely related to the claimed invention and an information disclosure statement has been filed without relating to those other considered more relevant pending applications and patented inventions, it appears that it would be appropriate to require the applicants to provide information necessary to ensure a quality examination may be performed by the Office.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process,

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machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete, and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998). Together, the "technological arts" and "useful, concrete, and tangible result" judicial review standard, result in a comprehensive examination standard wherein the "technological arts" is one element and the "useful, concrete, and tangible result" is another complementary element.

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This comprehensive examination standard was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson*, 409 U.S. 63, 175 USPQ (BNA) 673 (1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. *In re Toma* at 857.

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust Co.*, the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little, if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful,

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concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, *State Street* never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within the technological arts under the *Toma* test. The Board of Patent Appeals and Interferences (BPAI) have recently acknowledged this dichotomy in affirming a §101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BPAI 2001).

Claims 11-17 and 24-26 are rejected under 35 U.S.C. 101 because the independently claimed invention does not recite a useful, concrete, and tangible result under *In re Alappat*, 31 USPQ2d 1545 (Fed. Cir. 1994) and *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596 (Fed Cir. 1998) such that the claimed invention is within the technological arts under *In re Waldbaum* 173 USPQ 430 (CCPA 1972) wherein the phrase "technological arts" is synonymous with "useful arts"



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as it appears in Article I, Section 8 of the United States Constitution. In those claims, it is considered that a concrete and tangible result is not recited. Specifically, the independently claimed recitation of sending, accessing, and receiving data including instructions thereof, is considered not to produce a concrete result because a result cannot be assured or is not reproducible. The service content recitation is considered at abstract concept that is non-enabling. Furthermore, under *In re Wamerdam*, 33 F.3d 1354; 31 USPQ2d 1754 (Fed. Cir. 1994), the sending, accessing, and receiving data including instructions thereof recitations are considered intangible because those steps are simply an abstract construct, such as a disembodied data structure and a method of making it, wherein those recitations involve more than a manipulation of an abstract idea and therefore is non-statutory under 35 USC 101. Because the independently claimed invention does not recite a useful, concrete, and tangible result, such that it is considered not within technological arts so that it uses technology in a non-trivial matter. Finally under *Ex parte Bowman*, 61 USPQ2d 1665 (Bd. Pat. App. & Inter. 2001) (unpublished but cited for analysis rather than precedent), in which an invention disclosed and claimed directed to a human merely making mental computations and manually plotting results on a paper chart is nothing more than an abstract idea which is not tied to any technological art and is not a useful art as contemplated by the United States Constitution. In this independently claimed invention, the steps of sending, accessing, and receiving data including instructions thereof are considered nothing more than an abstract idea since it is not tied to any technological art. Claims 12-17 are considered non-statutory because each depend upon a rejected claim considered non-statutory. However in order to consider those claims in light of the prior art, examiner will assume that those claims recite statutorily permitted subject matter.

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***Claim Rejections - 35 USC § 112***

The following is a quotation of the second and sixth paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

Claims 27-29 are is rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention and for not setting a limit on how broadly the Office may construe means-plus-function language under the rubric of reasonable interpretation (please see MPEP 2181). The independently claimed means is not construed means-plus-function language under the rubric of reasonable interpretation, because the specification does not provide a clear limit of patentability. The independently claimed means are merely exemplified after the "for" recitation and may incorporate any function that could be taught in the prior art. In order to consider that claim in light of the prior art, examiner will assume that those claims contain a clear limitation under the broadest reasonable interpretation.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(c) he has abandoned the invention.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by  
Hidary (US 5,852,775).

Claims 11-17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by  
Gottsman et al. (US 6,134,548).

Claims 18-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by  
Deschrijver (WO 00/69180).

Claim 23 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Laor  
(US 6,041,309).

Claim 24 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by  
Chern et al. (WO 01/22748).

Claim 25 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by  
Owensby (WO 00/35216).

Claim 26 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by  
Holman (US 5,285,278) or Tracy et al. (US 5,979,757).

Claim 27 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Axler  
et al. (US 5,305,197) or is rejected under 35 U.S.C. 102(e) as being clearly anticipated  
by Kopenen et al. (EP 1 104 973).

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Claim 28 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Christensen (US 6,035,280).

Claim 29 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Williams et al. (US 6,075,971).

Claims 1-29 are rejected under 35 U.S.C. 102(c) because the invention has been abandoned. Abandoned U.S. patent application serial number 09/240,963 contained substantially the same claimed subject matter and was abandoned. The application contained a common inventor and at least one common assignee. It is considered that the earlier filed application with a common inventor and at least one common assignee with substantially the same claimed subject matter is statutorily barred from patenting because it has been abandoned.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over an obvious variation of examiner's personal experience of a method, product, or system for delivering coupons based on location as provided by coupon browsing from weekly Sunday newspaper inserts. The claimed electronic database, mobile communications device including wireless networks or mobile telephone, internet, telephone service provider, database server, computer program product, data processing system, computer readable medium, and electronic coupons are considered automated features of an old and well known manual operation, which will be discussed infra. The claimed method, product, or system are considered to be patentably equivalent to the examiner receiving a Sunday newspaper containing a section of clippable coupons for applying towards retail purchases at local merchants based on the broadest reading of the claims under the *Graham* decision. Since at least 1994, examiner has experience with the claimed invention as a consumer. The claimed method, product, or system, comprising:

- creating merchant coupons or creating and storing consumer profiles based on demographic characteristics such that a merchant scans through user profiles and stores a merchant subscription to particular consumer profiles;
- receiving or sending a request from a user seeking coupons or assigning profiles subscribed to by the merchant;
- determining the location of the user;

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providing or sending a menu of service preferences to the user;

receiving or transmitting a service preference selection from the user; and

delivering or receiving coupons to the user based on the selected service preferences and location or filtering coupons to be sent to a consumer based on the location of the user including instructions or means for thereof are part of examiner's personal experience. Examiner's personal experience also includes the claimed service providers, database access request, location determination, service preferences including preselection and storage, and merchant selection based on radius of user location. The claimed creating merchant coupons or creating and storing consumer profiles based on demographic characteristics such that a merchant scans through user profiles and stores a merchant subscription to particular consumer profiles is considered functionally equivalent to resulting merchant coupons appearing in a Sunday newspaper coupon section including the resulting consumer demographic profiles pertaining to the subject matter of the coupons (i.e. near Valentines Day many merchants offer coupons for chocolate and/or candy based on profiling demographics that most consumers partake in Valentine gift exchanging). The claimed receiving or sending a request from a user seeking coupons or assigning profiles subscribed to by the merchant and determining the location of the user is considered functionally equivalent the examiner receiving a Sunday newspaper containing coupons with assigned profiles (i.e. a coupon for the Canadian Shiner Bock beer would unlikely be presented in examiner's DC metro area Sunday newspaper, because a merchant profile would not carry the beer in the retail DC metro area). The claimed providing or sending a menu of service preferences

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to the user and receiving or transmitting a service preference selection from the user is considered functionally equivalent to examiner receiving a menu of coupon service preferences associated with the area merchants. The claimed delivering or receiving coupons to the user based on the selected service preferences and location or filtering coupons to be sent to a consumer based on the location of the user including instructions or means for thereof is considered functionally equivalent to examiner being sent a Sunday newspaper containing demographically profiled coupons based on preferences associated with the area merchants and examiner consumerisms and location. The claimed service providers, database access request, location determination, service preferences including preselection and storage, and merchant selection based on radius of user location are old and well known to those skilled in similar areas of examiner experience and are considered part of coupon newspaper clipping included in examiner's experience. The claimed invention contains automated features, such as electronic database, mobile communications device including wireless networks or mobile telephone, internet, telephone service provider, database server, computer program product, data processing system, computer readable medium, and electronic coupons which are obvious variations to the examiner's experience that is so old and well known that the examiner will use Official notice to obviate that claimed subject matter. The claimed electronic database, mobile communications device including wireless networks or mobile telephone, internet, telephone service provider, database server, computer program product, data processing system, computer readable medium, and electronic coupons, as discussed in the specification, are

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interpreted to encompass automated electronic communications associated with electronic mail, Internet, and/or computer to server communications. The claimed invention, recited by the applicant, has been provided to examiner by personal experience long before the filing of applicant's invention. Examiner notes that it is old and well known to those skilled in the art of the claimed method, product, or system, that it would have been obvious to claim the invention as recited by the applicants, in order to overcome the explicit teachings of examiner's personal experience discussed supra. It would have been obvious to one skilled in the art to provide the automated claimed method, product, or system since those features, particularly electronic database, mobile communications device including wireless networks or mobile telephone, internet, telephone service provider, database server, computer program product, data processing system, computer readable medium, and electronic coupons, are merely automated features of a concept that is old and well known. Please see *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) in which the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. The motivation to combine applicants' claimed invention with the services offered by consumer product questionnaires, under examiner experience is to allow greater consumer targeting capabilities through electronic mediums, while transferring information, which clearly shows the obviousness of the claimed invention.



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### Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of copending Application No. 09/855,090 or are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of copending Application No. 09/878,484 or are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of copending application 09/905,885. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application contains an obvious variation recitation in claim language as applied to the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Claims 1-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,519,557 because the patented plural file reading, multiple hierarchical document generating, and quantitative similarity measurements is an obvious variation to the present application claims including database of coupon offers requests with user location, preference and delivery options, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent No. 6,516,312 because the patented automatic query builder including database storage for a domain specific search query string and synchronization of a search engine repository and local query database with summary marker steps are an obvious variation to the present application claims including database of coupon offers requests with user location, preference and delivery options, or are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,606,644 because the patented real-time communications server connection along with monitoring, retrieving, indexing and summarizing are an obvious variation to the present application claims including database of coupon offers requests with user location, preference and delivery options. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application contains obvious variant recitations, which are obvious variations of the patented invention features since both comparisons perform the same function, in the same way with the same result.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Non-patent literature reference U, cited in this action, is considered the most relevant non-patent literature reference with respect to the claimed invention.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Steve Gravini whose telephone number is (703) 308-7570 and electronic transmission / e-mail address is [steve.gravini@uspto.gov](mailto:steve.gravini@uspto.gov).

Examiner can normally be contacted Monday through Friday from 6:00 a.m. to 3:30 p.m. **If applicants choose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured.**

Please see MPEP 502.02. Information may be sent to the Office by facsimile transmission. The Official Fax Numbers for TC-3600 are:

After-final	(703) 872-9327
Official	(703) 872-9306
Non-Official/Draft	(703) 872-9325

  
**STEPHEN GRAVINI**  
**PRIMARY EXAMINER**

smg  
February 17, 2004